

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAMES W. BALLINGER,	:	
	:	NO. 1:07-CV-00256
Plaintiff,	:	
	:	
v.	:	
	:	OPINION AND ORDER
	:	
CITY OF LEBABNON, et al.,	:	
	:	
Defendants.	:	

This matter is before the Court on the Magistrate Judge's Report and Recommendation (doc. 72) regarding Plaintiff's motion to proceed in forma pauperis on appeal (doc. 68). Plaintiff filed no objections to the report. For the reasons indicated herein, the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation in its entirety and DENIES Plaintiff's motion.

Pro se Plaintiff James Ballinger filed an Amended Complaint on May 2, 2007, against the City of Lebanon, Ohio, the former and current Lebanon City Manager, the Mayor of Lebanon, individual Lebanon City Council members, the Lebanon City Auditor/Tax Commissioner, Tax department employee Jeanne Loxley, City Attorney Mark Urick, Municipal Court Magistrate James Ruppert, City Prosecutor Andrea Hicks, the Lebanon Tax Board of Review, and three unknown/unlisted members of the Tax Board of Review, alleging false arrest, malicious prosecution, first amendment retaliation, "witness against himself," violation of City Code 151.12, and "retirement and security" (doc. 2). The Court granted summary

judgment to Defendants on November 18, 2010 (doc. 64). Plaintiff filed a notice of appeal (doc. 67) and the instant motion for leave to appeal in forma pauperis (doc. 68).

The Magistrate Judge found that Plaintiff failed to state the issues he intended to present on appeal, in violation of Rule 24(a)(1) of the Federal Rules of Appellate Procedure (doc. 72). In addition, the Magistrate Judge determined that Plaintiff's appeal would not be taken in good faith because he had not demonstrated that his appeal presents a substantial, nonfrivolous question since his claims are time-barred (Id.).

The Court finds no clear error on the face of the record and thus accepts the Magistrate Judge's Report and Recommendation in its entirety. See Advisory Committee Notes to Fed. R. Civ. P. 72; Thomas v. Arn, 474 U.S. 140, 150(1985) ("It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). In addition to the fact that Plaintiff did not comply with Rule 24(a)(1), Plaintiff's appeal would not be taken in good faith. Thus, this Court cannot grant Plaintiff's motion to proceed in forma pauperis. See 28 U.S.C. § 1915(a)(3).

Therefore, the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation in its entirety (doc. 72), CERTIFIES that an appeal would not be taken in good faith, and

DENIES Plaintiff's motion for leave to file an appeal in forma pauperis (doc. 68).

SO ORDERED.

Dated: February 2, 2011

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge